

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

LG.PHILIPS LCD CO., LTD.,

Plaintiff/Counterclaim Defendant,

v.

TATUNG COMPANY;  
TATUNG COMPANY OF AMERICA, INC.;  
CHUNGHWA PICTURE TUBES, LTD.;  
AND VIEWSONIC CORPORATION,

Defendants/Counterclaim Plaintiffs.

Civil Action No. 05-292 (JJF)

**PLAINTIFF LG.PHILIPS LCD CO., LTD.'S MOTION TO STRIKE  
DEFENDANTS' MOTION FOR PARTIAL SUMMARY  
JUDGMENT ON DAMAGES UNDER 35 U.S.C. SECTION 287**

Plaintiff LG.Philips LCD Co., Ltd. (“LPL”) hereby moves to strike defendants’ Motion For Partial Summary Judgment On Damages Under 35 U.S.C. Section 287 (D.I. 219) (the “Summary Judgment Motion”) and related papers on the ground that it was untimely filed.

Pursuant to Local Rule 7.1.2(a), LPL waives its right to file a separate opening brief in support of this motion. Instead, LPL states in support of this motion as follows:

1. The Summary Judgment Motion was filed at 10:57 p.m. on June 13, 2006, and was served electronically at 11:25 p.m. that day. For all practical purposes, it was served on June 14, 2006.

2. Paragraph 6 of the Joint Rule 16 Scheduling Order dated December 21, 2005 (D.I. 62) requires that “(d)ispositive motion briefing shall be completed no later than June 14, 2006.” Accordingly, the deadline for filing dispositive motions in time for completion of full briefing was May 24, 2006.

3. The Court has not altered the deadline for filing dispositive motions.

Significantly, when the defendants moved to continue the date of the pretrial conference (D.I. 204), they made no mention of even contemplating filing dispositive motions.

4. Defendants could have sought previously the relief in the Summary Judgment Motion. Defendants did not seek an extension of the deadline to file dispositive motions. No good cause exists warranting consideration of the untimely Summary Judgment Motion.

5. The pretrial conference is in three weeks, and trial is set to start in a little more than five weeks. LPL is busy enough preparing for those events. It would be prejudicial to require it to respond to a motion that is plainly late.

6. Any issues raised by the Summary Judgment Motion may be addressed at or after the trial set to commence on July 17, 2006.

WHEREFORE, LPL respectfully requests that the Court enter an order striking the Summary Judgment Motion and related papers on the ground that the Summary Judgment Motion was untimely filed, and granting such other relief as the Court deems just.

June 14, 2006

THE BAYARD FIRM

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**LOCAL RULE 7.1.1 STATEMENT IN SUPPORT OF  
PLAINTIFF'S MOTION TO STRIKE DEFENDANTS' MOTION FOR PARTIAL  
SUMMARY JUDGMENT ON DAMAGES UNDER 35 U.S.C. SECTION 287**

The undersigned attorney for plaintiff, LG.Philips LCD Co., Ltd. ("LPL") hereby states, pursuant to Local Rule 7.1.1, that LPL's attorneys have made a reasonable effort to reach agreement with opposing counsel on the matters set forth in plaintiff's Motion to Strike Defendant's Motion For Partial Summary Judgment On Damages Under 35 U.S.C. Section 287, but that agreement was not forthcoming.

June 14, 2006

THE BAYARD FIRM

  
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**ORDER**

Upon consideration of Plaintiff LG.Philips LCD Co., Ltd.'s ("LPL") Motion to Strike Defendants' Motion For Partial Summary Judgment On Damages Under 35 U.S.C. Section 287 (the "Motion to Strike"), filed June 14, 2006, IT IS HEREBY ORDERED that:

1. LPL's Motion to Strike is GRANTED.
2. The Defendants' Motion For Partial Summary Judgment On Damages Under 35 U.S.C. Section 287 (D.I. 219) shall be stricken from the record.

SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
United States District Judge

**CERTIFICATE OF SERVICE**

The undersigned counsel certifies that, on June 14, 2006, he electronically filed the foregoing document with the Clerk of the Court using CM/ECF, which will send automatic notification of the filing to the following:

Robert W. Whetzel, Esq.  
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The undersigned counsel further certifies that copies of the foregoing document were sent on June 14, 2006 by email and by hand to the above counsel and by email and first class mail to the following non-registered participants:

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